

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 18988
[REDACTED]	)	
	)	DECISION
Taxpayer.	)	
_____	)	

On June 30, 2005, the staff of the Sales, Use and Miscellaneous Tax Audit Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (Taxpayer), proposing sales tax, use tax, and interest for the period January 1, 2000, through December 31, 2002, in the total amount of \$230,545.

In a letter dated August 30, 2005, the taxpayer filed a timely appeal and petition for redetermination. In the petition the taxpayer stated that numerous sales and purchases held taxable by the auditor would be dismissed once the taxpayer could provide exemption and other applicable documentation. It asked the Commission to grant the time necessary to gather documentation and present it to the auditor.

In the time between the petition for redetermination and the transfer of the audit file from the Bureau to the Legal/Policy Section of the Commission (Policy), the auditor communicated with the taxpayer and lowered the amount due to \$222,748 plus accrued interest.

Additional information was expected from the taxpayer, but, after a time, believing that no additional information was forthcoming, the Bureau transferred the file to Policy in early August of 2006. Policy sent a hearing rights letter to the taxpayer on August 11, 2006. The taxpayer did not respond to that letter, but on October 18, 2006, a Policy Specialist spoke with one of the taxpayer's employees who called to inquire on the status of the taxpayer's fuels tax refunds that had not been processed by the Commission. The Policy Specialist responded that

the Commission is holding the refunds pending the outcome of the protested sales and use tax audit. In response to a request by the caller, Policy sent him a copy of the hearing rights letter via fax on October 18, 2006.

Neither the taxpayer's employee who received the original letter nor the one who requested the fax responded. On November 6, 2006, the Commission sent a final hearing notification to the addressee of the August 11, 2006, letter, requesting any available information that might lower the deficiency. The Commission received a call from the recipient of this letter on November 21, 2006. He promised to forward information for the Commission's review no later than December 1, 2006. As of this writing, the taxpayer has not responded and therefore has not provided anything further for the Commission to consider. The Commission, having reviewed the file, hereby issues its decision upholding the deficiency as adjusted.

The taxpayer has not provided the Commission with information to establish that the amount asserted in the Notice of Deficiency Determination is incorrect. As a result, the Commission will uphold the tax deficiency notice, as adjusted, for the period January 1, 2000, through December 31, 2002. A determination of the State Tax Commission is presumed to be correct (*Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)) and the burden is on the taxpayer to show that the deficiency is erroneous (*Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2 (Ct. App. 1986)).

Absent information to the contrary, the Commission finds the deficiency prepared and later adjusted by the Bureau to be a reasonably accurate representation of the taxpayer's sales and use tax liability for the period January 1, 2000, through December 31, 2002.

The Bureau added interest to the sales and use tax deficiency and this has been updated to the present. The Commission reviewed this addition and found it to be appropriate per Idaho Code § 63-3045.

WHEREFORE, the Notice of Deficiency Determination dated June 30, 2005, as adjusted, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS HEREBY ORDERED and THIS DOES ORDER that taxpayer pay the following tax and interest:

<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$174,624	\$65,424	\$240,048

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.